

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Mar 15, 2022

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,  
Plaintiff,

Nos. 2:21-CR-0054-WFN-1  
2:21-CR-0055-WFN-1

-vs-

ORDER

GORDON LEE McVAY,  
Defendant.

A pretrial conference and motion hearing was held March 15, 2022. The Defendant, who is in custody, was present and represented by Roger Peven and Justin Lonergan; Assistant United States Attorneys George Jacobs, III and Dominique Park represented the Government.

Defendant asked for this hearing to be set due to a late discovery disclosure that requires additional time to review and investigate. Defense counsel indicated that he has no indication that counsel for the Government withheld discovery; Government provided the discovery immediately upon receiving the materials from local law enforcement. The Government had no objection to a continuance to allow time for further trial preparation and investigation. The Government further indicated that a motion to dismiss 2:21-CR-0055-WFN will be filed today. The Court has reviewed the file and is fully informed. This Order is entered to memorialize and supplement the oral rulings of the Court. Accordingly,

**IT IS ORDERED** that:

**2:21-CR-0054-WFN-1**

1. Defendant's oral motion for a trial continuance is **GRANTED**.

The Court finds that the ends of justice served by the granting of a continuance of the trial in this matter outweigh the best interests of the public and the Defendant in a speedy

1 trial. A trial date of March 21, 2022, would unreasonably deny Defendant the opportunity  
2 to review discovery, file appropriate pretrial motions, investigate the charges against him,  
3 and to benefit from effective assistance of counsel, taking into account the exercise of due  
4 diligence. 18 U.S.C. § 3161(h)(7).

5 2. The trial date of March 21, 2022, is **STRICKEN and RESET to April 18, 2022,**  
6 **at 10:00 a.m., in Spokane,** Washington.

7 3. All time from the trial date of March 21, 2022, to the new trial date of April 18,  
8 2022, is **EXCLUDED** for speedy trial calculations pursuant to 18 U.S.C. § 3161(h)(7).  
9 Defendant executed a waiver of speedy trial rights.

10 4. The **March 21, 2022,** final pretrial conference is **STRICKEN and RESET to**  
11 **April 18, 2022, at 8:30 a.m., in Spokane,** Washington.

12 5. Any updated trial briefs, new motions in limine, and a set of proposed **JOINT**  
13 **JURY INSTRUCTIONS** shall be filed and served on or before **April 8, 2022.**

14 Jury instructions should only address issues that are unique to this case and shall  
15 include instructions regarding the elements of each claim, any necessary definitions and a  
16 proposed verdict form. The Joint Proposed Jury Instructions shall include:

17 (a) The instructions on which the parties agree; and

18 (b) Copies of instructions that are disputed (i.e., a copy of each party's proposed  
19 version of an instruction upon which they do not agree). All jury instructions from the most  
20 current edition of the Ninth Circuit Manual of Model Jury Instructions may be proposed by  
21 number. The submission of the Joint Proposed Jury Instructions will satisfy the requirements  
22 of LR 51.1(c).

23 Each party shall address any objections they have to instructions proposed by any  
24 other party in a memorandum. The parties shall identify the specific portion of any proposed  
25 instruction to which they object and shall elaborate the basis for the objection. Objections  
26 asserting that an instruction sets forth an incorrect statement of law shall describe the legal  
27 authority that supports this objection. Failure to file an objection and supporting argument  
28 may be construed as consent to the adoption of an instruction proposed by another party.

6. Witness and exhibit lists shall be filed and served **no later than 12:00 noon on April 11, 2022.**

7. An additional pretrial conference shall be held **April 6, 2022, at 9:00 a.m., in Spokane, Washington.**

(a) All additional motions shall be filed and served no later than **March 25, 2022.**

(b) Responses shall be filed and served no later than **April 1, 2022.**

8. Indigent Defendant's requests for issuance of subpoenas and payment of costs and fees for trial witnesses shall be filed no later than ten days before trial, excluding weekends and holidays.

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9. The Government's Motion to Dismiss Case Without Prejudice, filed March 15, 2022, **ECF No. 70**, is **GRANTED**.

10. The Indictment in Case No. 2:21-CR-0055-WFN-1 is **DISMISSED WITHOUT PREJUDICE**.

The District Court Executive is directed to file this Order and provide copies to counsel.

**DATED** this 15th day of March, 2022.



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WM. FREMMING NIELSEN  
SENIOR UNITED STATES DISTRICT JUDGE

03-15-22